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Hewlett-Packard Company  
Intellectual Property Administration  
PO Box 272400  
Fort Collins CO 80528-9599

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DIRECTOR OFFICE  
TECHNOLOGY CENTER 2600

DECISION  
ON PETITION

In re Application of:  
Rogelio Robles  
Application No. 09/613,700  
Filed: July 11, 2000  
For: **DISTRIBUTED PRINTING SYSTEM  
AND METHOD**

This is a decision on the Petition to Withdraw the Holding of Abandonment filed on October 21, 2004 which is treated as a pursuant to MPEP §711.03 and 37 C.F.R. §1.181. No fee is required.

*The petition is granted.*

This application became abandoned for failure to timely file a response to the non-final Office action mailed January 20, 2004, which set a shortened statutory period of three months to reply. A Notice of Abandonment was mailed on October 6, 2004.

Petitioner alleges to have timely filed a proper response to the non-final Office action mailed January 20, 2004. In support, petitioner has provided as evidence, a copy of said response and a copy of a Certificate of Facsimile Transmission dated April 19, 2004. Also included with the response is a copy of an Auto-Reply Facsimile Transmission indicating that a 14-page document from Petitioner was received in the U.S. Patent and Trademark Office on April 19, 2004.

37 C.F.R. § 1.8 Certificate of mailing or transmission states in part:

(a) Except in the cases enumerated in paragraph (a)(2) of this section, correspondence required to be filed in the Patent and Trademark Office within a set period of time will be considered as being timely filed if the procedure described in this section is followed. The actual date of receipt will be used for all other purposes.

(1) Correspondence will be considered as being timely filed if:

(i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being:

(A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; or

(B) Transmitted by facsimile to the Patent and Trademark Office in accordance with § 1.6(d); and


(ii) The correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated. [emphasis added]

Petitioner is the one who executed the certificate of transmission. Furthermore, the Auto-Reply Facsimile Transmission report is evidence that the documents were in fact transmitted to the

Office. Accordingly, it is deemed that the original response was received on April 19, 2004 and subsequently misplaced.

Given that Petitioner has successfully demonstrated the receipt of the response within the U.S. Patent and Trademark Office on April 19, 2004, the Notice of Abandonment is vacated and the holding of abandonment withdrawn.

The application file is being forwarded to the technical support staff for entry of the copy of the original response which accompanied the subject petition. Thereafter, the application will be forwarded to the Examiner for appropriate action in due course.

  
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Dwayne D. Bost  
Special Program Examiner  
Technology Center 2600  
Communications